

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TruePosition Inc.)	
)	
Plaintiff/,)	
Counterclaim-Defendant,)	
)	
v.)	Civil Action No. 05-00747-SLR
)	
Andrew Corporation,)	
)	
Defendant/.)	
Counterclaim-Plaintiff.)	
_____)	

TRUEPOSITION'S FIRST SET OF
INTERROGATORIES TO ANDREW CORPORATION (NOS. 1-15)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff TruePosition, Inc. ("TruePosition") requests that Defendant Andrew Corporation ("Andrew"), answer under oath the following interrogatories within thirty (30) days of the service date hereof.

Interrogatory No. 7

State the factual basis for the allegations in the First Affirmative Defense and paragraph 9 in the Counterclaims section of Andrew's Answer that the "144 Patent and each of its claims are invalid and/or unenforceable under one or more sections of Title 35 of the United States Code, including §§ 101, 102, 103, and/or 112," including the identity of each section of Title 35 of the United States Code under which the 144 Patent and each of its claims are allegedly invalid and/or unenforceable, which claims of the 144 Patent are allegedly invalid and/or unenforceable under each section of Title 35 identified, the prior art, if any, that allegedly renders each claim of the 144 Patent invalid and/or unenforceable under each section of Title 35 identified, and how such prior art allegedly renders each claim of the 144 Patent invalid and/or unenforceable under each section of Title 35 identified.

Response:

Interrogatory No. 8

State the factual basis for the allegation in the Third Affirmative Defense of Andrew's Answer that "TruePosition is barred from maintaining its claims for infringement by the defense of equitable estoppel."

Response:

Interrogatory No. 9

Sate the factual basis for the allegation in the Fourth Affirmative Defense of Andrew's Answer that "TruePosition is not entitled to any relief by reason of its coming into this Court with unclean hands."

Response:

Interrogatory No. 15

Explain in detail why Andrew decided to participate in the efforts to include Uplink Time Difference of Arrival (U-TDOA) as a means or method of locating mobile telephones or units in 3GPP and/or ETSI technical specifications or other deliverables, including whether Andrew's relationship with any Wireless Provider, including but not limited to AT&T Wireless and Cingular Wireless, and/or any other customer of Andrew, foreign or domestic, influenced or played any role in the decision to initially participate in such efforts, or to continue participating in such efforts, how any such relationship, individually, influenced or played a role in the decisions to initially participate or continue participating in such efforts, and state the substance of any communications between Andrew and such Wireless Provider and/or customer relating to the issue of whether Andrew should initially participate or continue participating in the efforts to include U-TDOA as a means or method of locating mobile telephones or units in 3GPP and/or ETSI technical specifications or other deliverables, including the date(s) on which such communications occurred and the Persons involved in such communications.

Response:

Dated: February 6, 2006


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CERTIFICATE OF SERVICE

I, Scott G. Wilcox, hereby certify that on this 6th day of February, 2006, I served the foregoing TruePosition's First Set of Interrogatories to Andrew Corporation (Nos. 1-15) as indicated below:

Via Hand-Delivery

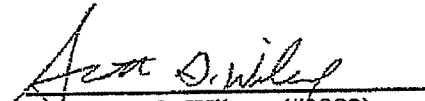
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Scott G. Wilcox (#3882)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TRUEPOSITION, INC.,

Plaintiff/Counterclaim-Defendant

vs.

CA No. 05-00747-SLR

ANDREW CORPORATION,

Defendant/Counterclaim-Plaintiff

VIDEOTAPED DEPOSITION OF DR. DAVID GOODMAN

New York, New York

Monday, January 15, 2007

Reported by:
Adrienne M. Mignano
JOB NO. 190791

Esquire Deposition Services
(215) 988-9191

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1
2 January 15, 2007
3 9:00 a.m.
4

5 Deposition of DR. DAVID GOODMAN,
6 held at the offices of Kirkland &
7 Ellis, 153 E. 53rd Street, New York,
8 New York, pursuant to Notice, before
9 Adrienne M. Mignano, a Notary Public of
10 the State of New York.
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1
2 IT IS HEREBY STIPULATED AND AGREED,
3 by and between counsel for the respective
4 parties hereto, that the filing, sealing and
5 certification of the within deposition shall
6 be and the same are hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED
8 that all objections, except as to the form
9 of the question, shall be reserved to the
10 time of the trial;

11 IT IS FURTHER STIPULATED AND AGREED
12 that the within deposition may be signed
13 before any Notary Public with the same force
14 and effect as if signed and sworn to before
15 the Court.
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25

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Page 5

1 APPEARANCES:

2 WOODCOCK WASHBURN
3 Attorneys for Plaintiff

4 Circa Centre, 12th Floor
5 2929 Arch Street
6 Philadelphia, PA 19104-2891
7 BY: PAUL B. MILCETIC, ESQ.
8

9 KIRKLAND & ELLIS
10 Attorneys for Defendants and The Witness
11 200 east Randolph Drive
12 Chicago, Ill 60601

13 BY: RACHEL PERNIC WALDRON, ESQ.
14
15

16 ALSO PRESENT:

17 PAUL JANSEN, Videographer
18
19
20
21
22
23
24
25

1 THE VIDEOGRAPHER: Good morning.

2 Here begins videotape number one
3 in the deposition of David Goodman in
4 the matter of TruePosition,
5 Incorporated versus Andrew Corporation
6 in the U.S. District Court for the
7 District of Delaware. Case number
8 05-00747-SLR.
9

10 Today's date is January the 15th
11 2007. The time is 9:05 a.m. This
12 deposition is being taken at the law
13 offices of Kirkland & Ellis, 153 East
14 53rd Street, New York, New York, and
15 was made at the request of Paul B.
16 Milcetic of the law offices of
17 Woodcock and Washburn of Philadelphia,
18 Pennsylvania.
19

20 The court reporter is Adrienne
21 Mignano. The videographer is Paul
22 Jansen here on behalf of Esquire
23 Deposition Services, located at 216
24 East 45th Street, New York, New York.

25 Would counsel and all present
please state their appearances for the

2 (Pages 2 to 5)

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1 Goodman
2 record.
3 MR. MILCETIC: Paul Milcetic,
4 Woodcock and Washburn. I represent
5 TruePosition.
6 MS. WALDRON: Rachel Waldron of
7 Kirkland & Ellis for Andrew
8 Corporation.
9 THE VIDEOGRAPHER: Will the court
10 reporter please swear in the witness.
11 DAVID GOODMAN, called as a
12 witness, having been duly sworn by a
13 Notary Public, was examined and
14 testified as follows:
15 MS. WALDRON: Before we get
16 started, I just wanted to state for
17 the record that I'm under the
18 impression that Dr. Goodman would like
19 to tell you about some small typos and
20 contributions that he would like to
21 make regarding his report.
22 EXAMINATION BY
23 MR. MILCETIC:
24 Q. Typos and corrections; is that
25 correct, Dr. Goodman?

1 Goodman
2 A. I understand the technology to be
3 operations within a cellular telephone
4 network.
5 Q. Did Mr. Parks say anything else?
6 A. I don't recall. We've had many
7 conversations since then, but initially he
8 just introduced the dispute to me, and asked
9 if I would have the availability or
10 interested in serving as an expert.
11 Q. Have you had any conversations with
12 anyone other than Mr. Parks at Kirkland &
13 Ellis?
14 A. Yes.
15 Q. Who?
16 A. Well, Ms. Waldron here. Ms.
17 Kaplan, and I met Ms. Frye.
18 Can I ask for a clarification?
19 That has to do with this case? You don't
20 mean any conversations at all with Kirkland &
21 Ellis?
22 Q. Correct.
23 A. With regard to this case, I think
24 those were the only people at Kirkland.
25 Q. What were your discussions with Ms.

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Page 9

1 Goodman
2 A. Yes.
3 Q. Well, before we begin then, why
4 don't you just tell me your name for the
5 record.
6 A. Sure. David Joel Goodman.
7 Q. Did there come a time, Dr. Goodman,
8 that you were contacted by anyone from
9 Kirkland & Ellis in connection with this
10 case?
11 A. Yes.
12 Q. When?
13 A. It was sometime in the summer,
14 perhaps July.
15 Q. Who contacted you?
16 A. Mr. Parks, Michael Parks.
17 Q. What did he say?
18 A. He said that there was some matter
19 that he thought I might be able to help the
20 court decide some issues in a patent lawsuit.
21 And then he told me some details about who
22 the parties were and the technology.
23 Q. What do you understand the
24 technology to be in this case?
25 MS. WALDRON: Objection. Vague.

1 Goodman
2 Waldron about?
3 MS. WALDRON: Objection. Vague.
4 Overbroad.
5 A. Well, mainly about the issues in
6 the lawsuit. There were some discussions of
7 scheduling, when could we meet, who is
8 available on the phone. Things like that.
9 Various procedural things, but mainly
10 discussions about the matters in the dispute.
11 Q. Now, before we started asking
12 questions, Ms. Waldron mentioned that there
13 were some typos in your report.
14 Do you remember that?
15 A. Yes.
16 Q. Which report are you referring to?
17 A. I submitted two reports in this
18 case, and actually I have about three or four
19 places where I think readers would be helped
20 if I corrected them. There are probably
21 other typos that are pretty obvious. So I
22 think there is one matter in the invalidity
23 report, and three little things in the money
24 infringement report.
25 Q. I'll give you the opportunity to

3 (Pages 6 to 9)

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1 Goodman
2 transceivers 12A to 12N should read shared
3 channel receivers 16A through 16N?
4 A. Correct.
5 Q. Is it your understanding if we look
6 at page 17, just two rows down where it says
7 control channel transceivers, do you see
8 that?
9 A. Yes.
10 Q. Is that still accurate in your
11 view?
12 A. Yes.
13 Q. If we look at the claim phrase
14 "equipped to receive signals sent by multiple
15 mobile cellular telephones," in that same
16 page 17 of your report, do you see that in
17 block 3 of claim 22?
18 A. Yes.
19 Q. Doesn't that equipment refer to the
20 same equipment that's received in the reverse
21 control channels in the claim?
22 MS. WALDRON: Object to the form.
23 Vague.
24 Q. Let me tell you what I'm trying to
25 get at. I want to make sure --

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1 Goodman
2 A. Thank you, I think you're helping
3 me if I have been too quick to -- yes, I want
4 to make everything consistent. So I
5 appreciate your help with this. So let me --
6 Mr. Milcetic, thank you. I think
7 the fifth row, it should be 16A and it should
8 be shared transceivers, so I don't know if I
9 have to share my fee with you.
10 Q. Not at all.
11 A. So that would make it entirely
12 consistent. So we want to change 12 to 16
13 twice and control to shared.
14 Q. And this would be in the fifth
15 block of claim 22?
16 A. Yes, yes, thank you very much.
17 Q. Just along the same lines, to make
18 sure we have a final report that we can talk
19 about.
20 A. Thank you. I'm losing points on
21 this exam.
22 Q. No, it's okay. It's not an exam.
23 We're trying to get what your opinions are
24 right now.
25 A. Thank you, I understand. I

1 Goodman
2 appreciate your help. I really do.
3 Q. If you look on page 18 of this
4 report under claim 31, you see again claim
5 phrase receiving said reverse claim signals,
6 and then again you refer to the control
7 channel transceivers 12A through 12N.
8 I still want to make sure that's
9 still your opinion?
10 A. Let's me think about it, please.
11 Q. Certainly.
12 A. To accurately reflect my -- to
13 accurately convey my opinion, we have to make
14 the same adjustment here as well.
15 Q. Just so --
16 A. Should I say exactly --
17 Q. I think the clearest way to make
18 this record is to allow you to mark up your
19 version of the report, which is an exhibit.
20 And make the changes there, wherever you
21 think it is appropriate.
22 A. I have been doing that without
23 asking you beforehand.
24 Q. So go ahead and mark the change
25 that you think would make your report

1 Goodman
2 accurate on Exhibit 301.
3 A. Thank you very much for the
4 opportunity.
5 MS. WALDRON: Just so the record
6 is clear, we're talking about Exhibit
7 300, right?
8 MR. MILCETIC: Excuse me, Exhibit
9 300, the invalidity report.
10 BY MR. MILCETIC:
11 Q. Are there any other changes that
12 you know of at the moment that you would like
13 to make to Exhibit 300 to correct your
14 report?
15 A. I don't know of any others in
16 Exhibit 300.
17 Q. The court reporter is about to hand
18 you what's been marked already as Exhibit
19 466. It's a document titled Draft
20 Translation of Japanese Patent Application.
21 It's AND0080497 to AND00503.
22 (Plaintiff's Exhibit 466, Draft
23 Translation of Japanese Patent
24 Application, Bates Stamped AND0080497
25 to AND00503, marked for identification,

19 (Pages 70 + 73)

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1 Goodman
2 as of this date.)
3 A. I have that.
4 Q. Do you recognize Exhibit 466?
5 A. Yes.
6 Q. What is it?
7 A. It's an English translation of
8 Japanese laid open patent application. It's
9 a draft translation.
10 Q. Did you rely on this Exhibit 466 in
11 rendering your invalidity report?
12 A. Yes.
13 Q. Do you speak Japanese yourself?
14 A. No, I don't.
15 Q. Without the translation, would you
16 be able to understand the Japanese reference?
17 A. No.
18 Q. Now, what I would like to do, and
19 I'm going to tell you what I'm going to do.
20 You have got Exhibit 466 in front of you,
21 correct, the Japanese translation?
22 A. Yes.
23 Q. And you have got in front of you
24 your invalidity report, which is Exhibit 300,
25 which you have now made some corrections to,

1 Goodman
2 system for determining the locations of
3 multiple cellular telephones."
4 Do you see that?
5 A. Yes.
6 Q. And your opinion is that that is
7 disclosed in Kono, correct?
8 A. Correct.
9 Q. And in particular in the draft
10 translation of Kono that's Exhibit 466,
11 correct?
12 A. Yes.
13 Q. Feel free to refer to your report
14 for this.
15 Where in Kono is that claim element
16 disclosed?
17 A. With your permission, I might mark
18 up some or all of these exhibits just to help
19 me out with your questions, is that --
20 Q. I think that's a perfect idea. If
21 I were you, I would leave your report alone.
22 A. I won't mark up my report.
23 Q. Other than that, that's fine.
24 MS. WALDRON: Sure. Whatever
25 helps you.

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1 Goodman
2 correct?
3 A. Yes.
4 Q. Feel free to refer to that. And
5 there is also, I believe you also have the
6 patent in front of you?
7 A. I do.
8 Q. Which is --
9 A. 462.
10 Q. What I'm going to ask you now is a
11 series of questions, and I'm going to go down
12 the summary chart reflecting your opinions
13 for various elements in that chart, I'm going
14 to ask you where you found those elements in
15 the draft translation and why you believe
16 those elements are disclosed in the draft
17 translation of Kono. Is that all right with
18 you?
19 So we'll go through your report in
20 a little more detail essentially.
21 A. Of course.
22 Q. Now, let's start with page 15 of
23 your invalidity report. The first row.
24 A. I have that.
25 Q. The phrase is "a cellular location

1 Goodman
2 A. Excuse me, Mr. Milcetic, before I
3 answer your question, I want to point out
4 that figures in the patent application aren't
5 included in Exhibit 466.
6 Q. Were they included in the version
7 that you prepared in rendering your report?
8 A. Yes.
9 Q. I believe this is the only version
10 that we have.
11 MS. WALDRON: Do you mean that
12 there were figures in that or that you
13 also relied on the original Japanese
14 figures?
15 THE WITNESS: That's true. I
16 relied on the figures. Anyway, I
17 had -- it says Figure 1, and I had a
18 copy of Figure 1 that I attached to
19 this, and I suppose maybe the
20 translator didn't attach it.
21 Q. Would it be helpful if I gave you
22 the figures in the original Japanese
23 translation?
24 A. Yes, please.
25 MS. WALDRON: I believe there are

20 (Pages 74 to 77)

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1 Goodman
2 also some in the report.
3 THE WITNESS: Thanks.
4 A. For the moment, Mr. Milcetic, Ms.
5 Waldron showed me that I incorporated it in
6 my report, so --
7 Q. Go ahead.
8 A. I don't need you to give me Figure
9 1 right now. Maybe all of them that I
10 referred to, if you remember that.
11 What's the question, please?
12 Q. Referring to page 15 of your
13 report, where in the Kono disclosure is a
14 cellular telephone location system for
15 determining the location of multiple mobile
16 telephones disclosed?
17 A. Okay.
18 And my answer is in the sentence in
19 the right-hand column of row 1 that appears
20 on page 3 of the translation, the working
21 example of this invention is described below,
22 and then it says Figure 1 shows a
23 configuration of a moving body position
24 location apparatus.
25 Q. And it's your interpretation that

1 Goodman
2 set of reverse control channels, Kono
3 discloses -- in other words, if somebody
4 decides that Andrew equipment is using a
5 prescribed set of reverse control channels,
6 then they would be forced to say that Kono is
7 also using a prescribed set of reverse
8 control channels.
9 Q. So is it correct that you're not
10 really saying that the '144 patent isn't
11 valid, so much that it may be invalid under
12 some interpretation of the patent?
13 MS. WALDRON: Objection.
14 Mischaracterizes.
15 A. What am I supposed to say yes or no
16 to?
17 Q. Let me ask a different question.
18 A. You're putting words into my --
19 that I didn't write into this report. Maybe
20 I should read how I described the situation.
21 Q. The question I have is: Is it your
22 opinion that the '144 patent is invalid?
23 A. Yes.
24 Q. Is it your opinion that the '144
25 patent is invalid even if Andrew's product is

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1 Goodman
2 the moving body refers to a cellular
3 telephone?
4 A. That's my interpretation.
5 Q. The next block down on page 15 of
6 your report, do you see that?
7 A. Yes.
8 Q. The phrase is "each initiating
9 periodic signal transmission over one of a
10 prescribed set of reverse control channels
11 comprising."
12 Do you see that?
13 A. Yes.
14 Q. Where in the Kono disclosure is
15 that claim element disclosed?
16 A. It says on page 3, at the beginning
17 of the section that's headed operation of the
18 invention, it says, "in this invention, a
19 moving body transmits position locating
20 signals using shared terminals."
21 Q. Is it your understanding that
22 shared channels are the same as a prescribed
23 set of reverse control channels?
24 A. It's my understanding that to the
25 extent that Andrew system using a prescribed

1 Goodman
2 not encompassed -- is not encompassed within
3 the '144 patent claims?
4 MS. WALDRON: Object to the form.
5 Q. Let me repeat it.
6 Is it your opinion that the '144
7 patent is invalid even if Andrew's geometrics
8 is not encompassed within the '144 patent
9 claims?
10 MS. WALDRON: Objection.
11 A. I don't have an opinion about that.
12 Q. As to whether under that set of
13 circumstances, the '144 patent is invalid?
14 A. I haven't done that analysis at
15 all.
16 Q. What is it about the phrase shared
17 channels in Kono that makes you believe that
18 it is similar or that it corresponds to
19 anything in Andrew's product?
20 MS. WALDRON: Object to the form.
21 Compound.
22 A. I think these channels are carrying
23 information in two directions, as a way that
24 the channels used in the Andrew's product.
25 Q. Specifically stand-alone dedicated

21 (Pages 78 to 81)

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1 Goodman
2 channels you mean?
3 A. Yes.
4 Q. In Andrew's product?
5 A. Yes.
6 Q. What makes you think that in Kono,
7 the shared channels are being transmitted in
8 two directions?
9 A. Well, because Kono disclosing a
10 transceiver at the cell site, or whatever he
11 calls the cell site, and transceiver includes
12 transmitter and receiver.
13 Also, it seems that Kono technology
14 allocates this shared channel to one cell
15 phone at a time. Just as Andrew -- just as a
16 stand-alone dedicated control channel carries
17 in any particular time interval information
18 from between one cell phone and one base
19 station.
20 Q. Is it your understanding that the
21 shared channels in Kono are channels that are
22 emitted as part of the normal operation as
23 part of a telephone location system?
24 MS. WALDRON: Objection. Vague.
25 A. I think they are emitted. The

1 Goodman
2 THE WITNESS: If it is fine with
3 you. We just said that. I could stop
4 now.
5 THE VIDEOGRAPHER: We're off the
6 video record at 12:29 p.m.
7 (Thereupon, a recess was taken,
8 and then the proceedings continued as
9 follows.)
10 THE VIDEOGRAPHER: We're back on
11 the video record at 1:34 p.m.
12 AFTERNOON SESSION
13 DAVID GOODMAN, resumed and
14 testified as follows:
15 EXAMINATION BY (Cont'd.)
16 MR. MILCETIC:
17 Q. Dr. Goodman, when we left we were
18 talking about a page of your invalidity
19 report.
20 Do you remember that?
21 A. I think so. Yes, okay, now, I
22 remember.
23 Q. And we were discussing the summary
24 chart, and in particular the second row of
25 the summary chart on page 15.

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Page 85

1 Goodman
2 shared channels are emitted.
3 Would you read the question again?
4 (Record read)
5 Q. Actually, I'll rephrase it.
6 Is it your understanding that the
7 position locating signals transmitted over
8 the shared channels are signals that are sent
9 in the context of a normal cellular telephone
10 system?
11 MS. WALDRON: Objection. Vague.
12 A. I suppose normal -- I'm not sure
13 what normal means in this question. If you
14 could explain it further, I can answer it
15 certainly.
16 Q. Is it your understanding that the
17 position locating signals in Kono are part of
18 the signals that are sent in any cellular
19 telephone system as part of its everyday
20 operation.
21 MS. WALDRON: Objection. Vague.
22 A. Yes.
23 MS. WALDRON: While there is no
24 question pending, are we still
25 breaking for lunch at 12:30?

1 Goodman
2 Do you remember that?
3 A. Yes, I recall.
4 Q. Is it your view that the claim
5 phrase prescribe set of a reverse control --
6 let me step back.
7 Let me redo that one, if that's
8 okay with you.
9 A. Oh, of course.
10 Q. Is it your opinion that the phrase
11 "prescribed set of reversed control channels"
12 is disclosed in Kono under the construction
13 that you provided this morning?
14 A. To the extent that it is practiced
15 by Andrew, so if it is interpreted in such a
16 way that you can find it in Andrew's
17 technology, you would be compelled to say
18 that Andrew has it as well.
19 Q. When you say that it is
20 interpreted, you mean to the extent that your
21 construction is interpreted?
22 A. Yes.
23 Q. I believe your construction this
24 morning of reverse control channel included
25 the requirement of a particular signal format

22 (Pages 82 to 85)

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Page 88

1 Goodman
2 according to certain cellular telephone
3 standards; is that right?
4 A. Yes.
5 Q. Does Kono disclose that signal
6 format?
7 A. I think to the same extent that
8 Andrew does, yes. To the same extent that
9 Andrew uses that format, I think Kono uses it
10 the same way Andrew does.
11 Q. Is it fair to say that both Kono
12 and Andrew do not use that signal format?
13 MS. WALDRON: Objection. Form.
14 A. I guess depending on the context,
15 somebody might say that.
16 Q. Well, do you believe that Andrew
17 uses that signal format?
18 A. No.
19 Q. Then does it follow that Kono
20 doesn't use that signal format as well?
21 MS. WALDRON: Objection to the
22 form.
23 A. I think I answered that as well.
24 In the same way that Andrew uses it or
25 doesn't use it, Kono -- I think I explained

1 Goodman
2 has similar properties to the stand-alone
3 dedicated control channel that I understand
4 is TruePosition's. It conforms to the
5 prescribed set of reverse control channels,
6 because, as you know, I have done the
7 infringement analysis as well as the
8 invalidity analysis, so I'm aware of how
9 TruePosition interprets this and I think they
10 are compelled to say. I know you have had
11 different experts for the two things. I
12 think if you ask Dr. Gottesman, he would have
13 to say, oh, yeah, it's in Kono too because of
14 the way he found it in Andrew. I don't agree
15 with him.
16 Q. When did you first learn how
17 TruePosition contends that Geometrix
18 infringes the patent?
19 A. I suppose it was in the summer when
20 Mr. Parks told me about the lawsuit.
21 Q. When did you start learning about
22 how Geometrix works in terms of its
23 operation?
24 A. I think it was in October, towards
25 the middle or end of October.

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1 Goodman
2 that before lunch.
3 Q. But you testified that Andrew
4 doesn't use that signal format, right, the
5 signal format in the cellular telephone
6 standards that define reverse control channel
7 in a way that you are interpreting it, right?
8 A. Yes.
9 Q. And you also testified that Kono
10 discloses that element to the same extent as
11 Andrew practices that element, correct?
12 A. Yes.
13 MS. WALDRON: Objection.
14 Q. Doesn't it follow then that Kono
15 doesn't then disclose that element?
16 A. I think to give a complete opinion,
17 I'd have to say that somebody who would find
18 that element in Andrew would have to find it
19 in Kono. So if somebody doesn't find it in
20 Andrew, I don't know, but -- I think
21 that's -- that sentence is my opinion.
22 Q. And what is the basis for that
23 opinion?
24 A. The basis for that opinion is that
25 the shared channel in the Kono application

1 Goodman
2 Q. Do you know when you first formed
3 an opinion that the '144 patent was invalid
4 if the claims are construed to cover
5 Geometrix?
6 A. Yes.
7 Q. When?
8 A. I think the first week in November.
9 Within that time frame.
10 Q. Do you remember when you first came
11 to the opinion that Geometrix doesn't
12 infringe the '144 patent?
13 A. I'm trying to synchronize these
14 dates here, but I think early in December I
15 came to the opinion that Dr. Gottesman didn't
16 prove that Geometrix infringes the '144
17 patent, so that's the opinion I want to offer
18 to the court.
19 I was asked by Kirkland & Ellis to
20 find out whether Dr. Gottesman proved it, and
21 it's my opinion that he did not.
22 Q. Is it your understanding that the
23 Kono disclosure discloses an AMPS cellular
24 telephone system?
25 A. Sorry, I haven't been asked for

23 (Pages 86 to 89)

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1 Goodman
 2 Q. I noticed in your invalidity
 3 report, Exhibit 300, at the end of the
 4 report, there is a listing of material to be
 5 considered in forming your opinion relating
 6 to the invalidity of the '144 patent,
 7 correct?
 8 A. Yes.
 9 Q. And I also noticed that nothing in
 10 that report, the invalidity report, none of
 11 those materials seem to relate to the
 12 operations of Geometrix.
 13 Am I right about that?
 14 MS. WALDRON: Objection. Form.
 15 Assumes a fact.
 16 A. I agree with you about -- well, I'd
 17 like to see. I just don't remember what's in
 18 references 5, 6 and 7 in Andrew, documents
 19 prepared by Andrew Corporation. Those are, I
 20 think, the only ones that might say something
 21 about how their Geometrix system works. I
 22 don't remember what's in them.
 23 Q. Did you, for purposes of rendering
 24 your invalidity report, did you consider the
 25 operation of Geometrix?

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1 Goodman
 2 A. Yes.
 3 Q. What were the sources that you
 4 used?
 5 A. To my recollection, there is one
 6 source that I didn't list here, and that was
 7 a phone conversation with Mr. Kennedy, who is
 8 an employee of Andrew.
 9 Q. When was the phone conversation?
 10 A. If I recall correctly, I spoke to
 11 him before I wrote the invalidity report. I
 12 just don't know.
 13 Q. Do you think to make your
 14 invalidity report accurate, it would be worth
 15 correcting it to add the Joseph Kennedy
 16 conversation?
 17 A. I think so. If that's true, I
 18 would like to ask Ms. Waldron because she
 19 participated in the phone conversation if it
 20 actually occurred.
 21 MS. WALDRON: I'm not allowed to
 22 testify right now.
 23 A. As I recall now, I think that would
 24 improve the report to say that I had a phone
 25 conversation with Mr. Kennedy.

1 Goodman
 2 Q. Would you prefer to make that
 3 change?
 4 A. Yes.
 5 Q. Please go ahead since we're keeping
 6 a master copy of what the report is
 7 reflecting your opinions today.
 8 A. Yes.
 9 Q. Just for the record, you're writing
 10 on Exhibit 300, correct?
 11 A. That's correct. I'm writing on
 12 page 3 of Exhibit B.
 13 Q. Apart from Ms. Waldron and
 14 Mr. Kennedy, was there anyone else on the
 15 conversation?
 16 A. I don't remember. There might have
 17 been another Kirkland attorney, but I don't
 18 know.
 19 Q. What exactly did you discuss?
 20 MS. WALDRON: Objection. Vague.
 21 A. As best as I can recall about that
 22 particular conversation, I think he kind of
 23 talked me through the -- talked me --
 24 explained step by step how Geometrix system
 25 finds out where a mobile phone is. Finds the

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1 Goodman
 2 location of a mobile phone.
 3 Q. Apart from -- let me step back.
 4 What did Ms. Waldron say on the
 5 conversation?
 6 MS. WALDRON: Objection. Vague.
 7 Overbroad.
 8 A. I don't recall that she said
 9 anything. I was visiting Kirkland & Ellis'
 10 office at the time, and as I said, Ms.
 11 Waldron was there, maybe Mr. Parks.
 12 Q. Where were you exactly?
 13 A. At the Kirkland & Ellis office in
 14 Chicago.
 15 Q. About when did the conversation
 16 take place?
 17 A. Early November.
 18 Q. Other than the early November
 19 conversation between yourself, Joe Kennedy
 20 and Ms. Waldron, did you have any other
 21 source of understanding of how Geometrix
 22 works at the time that you rendered your
 23 invalidity report?
 24 A. I don't recall any other sources.
 25 Q. At that time, had you looked at any

27 (Pages 102 to 105)

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1 Goodman
2 Geometrix source code?
3 A. No.
4 Q. At that time, had you looked at any
5 technical documentation relating to the
6 operation of Geometrix?
7 A. I don't think so.
8 Q. Let me explain where I'm going with
9 this.
10 As I understand it, correct me if
11 I'm wrong, you were -- your opinion in your
12 invalidity report in summary is that the Kono
13 disclosure discloses each element of the
14 claims and corresponds to each element of the
15 '144 patent claims to the same extent that
16 Geometrix does, correct?
17 A. Yes, almost correct.
18 Maybe not to the same extent, but
19 if Geometrix conforms to the claims, then
20 Kono conforms to the claims, and I don't know
21 how to measure extent. It seems like a
22 binary thing, it either conforms or it
23 doesn't.
24 Q. It follows then at the time that
25 you rendered your invalidity opinion, you

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1 Goodman
2 must have had some working knowledge of the
3 Geometrix product, correct?
4 A. Yes.
5 Q. To render that opinion?
6 A. Yes.
7 Q. And that understanding of the
8 Geometrix product at the time that you
9 rendered your invalidity report would have
10 been based, at least in part, on the
11 conversation between you and Mr. Kennedy in
12 early November, correct?
13 A. Yes.
14 Q. And thus far, you haven't been able
15 to recall any other sources of information,
16 right?
17 MS. WALDRON: Objection.
18 Misstates.
19 A. At the moment, I don't recall.
20 Q. Do you want to think about it and
21 think of some other potential sources?
22 A. Well, I was just going to explain
23 my answer a little more. That I have, by now
24 I have a pile of documents relating to the
25 Geometrix system, and I have read a lot of

1 Goodman
2 them, and I just don't remember when I
3 received them and when I read them relative
4 to preparing this report. But I think the
5 information that I used was what I heard
6 Mr. Kennedy tell me about.
7 Q. When Mr. Kennedy explained the
8 operation of the Geometrix system to you, did
9 he go through each element of the claims and
10 discuss how Geometrix relates to those
11 elements?
12 MS. WALDRON: Objection. Vague.
13 Assumes a fact.
14 A. As best as I can recall from two,
15 two-and-a-half months ago from a phone
16 conversation, he really didn't analyze the
17 '144 patent. You know, I asked him
18 questions, tell me how it works, he told me
19 how it worked, and we didn't get very far
20 into the patent claims. I just wanted to
21 know how does your stuff find out where a
22 cell phone is located.
23 Q. Next claim element on page 16 of
24 your invalidity report is timing signal
25 receiver.

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1 Goodman
2 Do you see that?
3 A. Yes.
4 Q. It's your opinion that the timing
5 signal receiver limitation in claim 1, the
6 second row of the chart on claim 16, is
7 disclosed in Kono?
8 A. Yes.
9 Q. What's the basis of that
10 understanding?
11 A. My basis for that understanding is
12 that there is a high precision clock within
13 each of the shared channel receivers labeled
14 54 in the Kono patent, and that this -- the
15 high precision clocks at all of the base
16 stations are corrected by the switching
17 station.
18 Q. Is it your understanding that the
19 Kono disclosure discloses a GPS clock?
20 A. That's not my understanding. I
21 don't subscribe to that.
22 Q. Is it your belief that Kono
23 discloses a GPS receiver?
24 A. It's my belief that Kono does not
25 say anything about a GPS receiver. Sorry,

28 (Pages 106 to 109)

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1 Goodman
 2 Q. Are any of the documents that one
 3 would look to in 1993 for the GPS receiver
 4 disclosure mentioned in your report?
 5 A. Not explicitly.
 6 Q. If you go back to page five of your
 7 invalidity report, please.
 8 A. Five?
 9 Q. Yes.
 10 A. Yes, I'm there.
 11 Q. There is a legal standard on page 5
 12 relating to obviousness that you read
 13 earlier, correct?
 14 A. Yes.
 15 Q. Is that essentially what the
 16 attorneys explained to you about how you go
 17 about showing whether something is obvious?
 18 A. Yes.
 19 Q. Did they use any kind of
 20 terminology relating to motivations to
 21 combined prior art references?
 22 A. I have heard that expression, and I
 23 don't remember if I heard it in my discussion
 24 of this patent, but I have heard it in other
 25 context. So I know that that is a

1 Goodman
 2 But it is the sort of thing that's a little
 3 obscure to an engineer.
 4 Q. Reading Kono, the Kono disclosure,
 5 will you conclude that what's disclosed there
 6 must be implemented using a GPS receiver?
 7 A. No.
 8 Q. Can we go back to claim 15 of your
 9 report now?
 10 A. Of course.
 11 Q. Back to the earlier claim elements.
 12 Actually it's page 60.
 13 A. Page 60.
 14 Q. Yes.
 15 This all started with the timing
 16 signal receiver?
 17 A. Yes.
 18 Q. Next claim element is a sampling
 19 subsystem.
 20 Do you see that?
 21 A. Yes, I do.
 22 Q. It's in the third row of the chart
 23 on page 16 of your invalidity report.
 24 Do you see that?
 25 A. Yes.

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1 Goodman
 2 consideration.
 3 Q. Turning back to page 17, the claim
 4 element wherein said timing receiver
 5 comprising a global positioning system
 6 receiver.
 7 A. Yes.
 8 Q. Do you believe your report is
 9 accurate as it is written in that -- under
 10 the question present in Kono, it says yes?
 11 A. I'm having a problem with that word
 12 inherently.
 13 Q. You're not sure --
 14 A. In my instruction. So it's my
 15 opinion if -- so I was informed by Kirkland &
 16 Ellis that it has to be there either
 17 expressly or inherently, and I certainly
 18 don't have the opinion that it is there
 19 expressly, and sitting here I forgot what
 20 they told me about inherently. I'm sure we
 21 discussed it. I think that's why I wrote yes
 22 at the time.
 23 If you would give me a definition
 24 of inherently, I would tell you whether
 25 sitting here I think it fits your definition.

1 Goodman
 2 Q. Since that's a long one, can you
 3 read that limitation into the record?
 4 A. "And a sampling sub, system
 5 operatively coupled to set timing signal
 6 receiver and said baseband converter for
 7 sampling baseband converter at a prescribed
 8 frequency and formatting the sample signal
 9 into frames of digital data each frame
 10 comprising of a prescribed number of data
 11 bits, said time stamp bits representing the
 12 time which said cellular telephone signals
 13 were received."
 14 Q. Is it your opinion that Kono
 15 discloses that claim limitation?
 16 A. It's my opinion that if someone
 17 asserted that Andrew Geometrix product has a
 18 sampling subsystem as described here, that
 19 same person would be compelled to say that
 20 Kono also has it.
 21 Q. Why do you say that?
 22 MS. WALDRON: Objection. Vague.
 23 Form.
 24 A. It's based on my understanding of
 25 the patent and my understanding of Kono's

30 (Pages 114 to 117)

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1 Goodman
2 application and my understanding of how the
3 Geometrix system works.

4 Q. Would you agree that the Kono
5 disclosure discloses no particular algorithm
6 of any kind?

7 MS. WALDRON: Objection. Vague.
8 Ambiguous.

9 A. Would you read the question,
10 please?

11 (Record read)

12 A. I disagree.

13 Q. Where does Kono disclose an
14 algorithm?

15 A. On page 4, there is a long middle
16 paragraph of this translation. There is a
17 mistake, I assume it is a mistake in the
18 translation or typo here, but I'll tell you.

19 I just have to narrow it down.

20 So if we say the word reports,
21 which is -- it's about six lines, maybe the
22 seventh line from the bottom of that long
23 paragraph, at the end of the line, it says
24 and reports to, and I think the thing that's
25 doing the reporting is the base stations.

1 Goodman

2 THE VIDEOGRAPHER: We're off the
3 video record at 2:43 p.m.

4 (Thereupon, a recess was taken,
5 and then the proceedings continued as
6 follows.)

7 THE VIDEOGRAPHER: We're back on
8 the video record at 3:01 p.m.

9 BY MR. MILCETIC:

10 Q. Dr. Goodman, when we left, we were
11 talking about page 16 of your invalidity
12 report, and particularly the sampling
13 subsystem limitation.

14 A. Yes.

15 Q. What is a sampling subsystem?

16 MS. WALDRON: Objection. Calls
17 for a legal conclusion.

18 A. I think for someone to understand
19 the meaning of sampling subsystem in this
20 patent, they would read the entire claim
21 limitation, and say a sampling subsystem is
22 the thing that does all of the stuff that is
23 in all of the -- performs all of the
24 operations.

25 I withdraw my answer for the

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1 Goodman
2 But anyway, reports to the switching stations
3 data such as difference in arrival time
4 position locating signals. And then the base
5 station forwards these data to the position
6 location calculating device.

7 And I think to make sense, this
8 would have to be the switching station
9 because one is a reference to switching
10 station. So -- and then it says the position
11 of the mobile equipment is calculated, and I
12 think someone of skill in the art would know
13 that there are many algorithms that would use
14 time difference of arrival to calculate
15 position.

16 Q. Is it your view that Kono then
17 discloses each one of those algorithms?

18 A. Yes. I'm not a lawyer, but I think
19 so. I mean, if Kono is valid, then anyone
20 using -- I just think so. As an engineer.

21 MS. WALDRON: Is this an okay
22 time for a break?

23 MR. MILCETIC: Any time.

24 THE WITNESS: We're running out
25 of tape.

1 Goodman

2 moment. Let me think about it.

3 I'll reinstate my answer. It's
4 some sort of apparatus that works in
5 connection with a timing signal receiver and
6 a baseband converter, and the things that it
7 does in these operations is sample the
8 baseband signal in a certain way. It formats
9 the sample signal into claims of data, and
10 these frames have particular properties as
11 described here. And the frames consist of
12 data bits and time stamp bits. And each of
13 those bits have prescribed properties.

14 Q. Before you ever read the '144
15 patent, have you ever seen a sampling
16 subsystem before?

17 MS. WALDRON: Objection.

18 Overbroad.

19 A. I don't remember.

20 Q. Would you say that the phrase
21 sampling subsystem is a term of art in your
22 field?

23 MS. WALDRON: Objection. Vague.

24 A. No, I wouldn't.

25 Q. Let's move on to the next element

31 (Pages 118 to 121)

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1 Goodman
2 now on page 16.
3 Do you see the central site system
4 element?
5 A. Yes.
6 Q. So on page 16 of your report at the
7 fourth row of the chart, there is a central
8 site system limitation cited, correct?
9 A. Yes.
10 Q. That's in claim 1 of the '144
11 patent claims?
12 A. Yes.
13 Q. It's your opinion that that is
14 disclosed by the switching station and
15 position location calculating device?
16 A. Yes.
17 Q. Are you saying both of them
18 together disclose a central site system.
19 Is your understanding that the
20 position location calculating device is just
21 a computer in Kono?
22 A. I think someone of skill in the art
23 would recognize that it could be realized --
24 I'm not sure what a computer means, but it
25 could be realized by a microprocessor or a

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1 Goodman
2 digital microprocessor. There are all forms
3 of computers. I don't know about a laptop or
4 a desktop.
5 So that would be part of it, and
6 the remainder of it would be some sort of
7 communication resources for transferring
8 information to and from the switching
9 station.
10 Q. The next claim element on page 16
11 is "means for processing said frames of data
12 from said cell site systems."
13 Do you see that?
14 A. Yes.
15 Q. Is it your opinion that that claim
16 term is disclosed in Kono?
17 A. It's my opinion that if somebody
18 found it in the Geometrix equipment, they
19 would be compelled to say that it is also in
20 Kono.
21 Q. In your view, does Kono disclose a
22 means for processing that's in some way
23 similar to a means for processing in
24 Geometrix?
25 MS. WALDRON: Objection. Vague.

1 Goodman
2 A. May I look at my claims
3 construction that are in these exhibits?
4 Q. Certainly. I believe your claim
5 construction is Exhibit --
6 A. So somewhere I defined means for
7 processing. So it might help me to --
8 Q. Yes. I think it is 463 or 464 that
9 you did that.
10 A. Yes, I see something on 463. I'd
11 like also to look at one of the other
12 exhibits, which was Andrew's proposed claim
13 construction from November 22nd.
14 Q. That's Exhibit 301.
15 A. 301. Thank you. I'm going to
16 refer to Exhibit 301.
17 Just to be absolutely certain,
18 would you read the question, please, just so
19 I know what I'm answering.
20 (Record read)
21 Q. I can clarify if you like.
22 A. I want to make sure I'm answering
23 the right question. It wasn't that it was
24 unclear.
25 Q. Under your construction today, you

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1 Goodman
2 just looked it up --
3 A. It's actually 465, I think.
4 Q. In Exhibit 465. Does Kono disclose
5 the means for processing limitation?
6 A. It's --
7 MS. WALDRON: Objection. Vague.
8 Calls for legal conclusion.
9 A. It's my opinion that someone of
10 skill in the art who finds that claim element
11 in Geometrix equipment would be compelled to
12 say that it also exists in Kono.
13 Q. What's the basis for your opinion?
14 A. The basis for my opinion is this
15 statement in Exhibit 466 that something
16 reports to the switching station data such as
17 the difference in arrival time of position
18 locating signals with respect to the
19 different base stations.
20 Q. The construction that you laid out
21 this morning for means for processing
22 encompassed Figure 6A and Figure 7, correct?
23 A. Yes.
24 Q. If I went through those figures on
25 a block by block basis, would you be able to

32 (Pages 122 to 125)

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1 Goodman
2 find a disclosure in Kono that corresponds to
3 those figures?
4 MS. WALDRON: Objection.
5 Compound. Overbroad.
6 A. It's my opinion that if somebody
7 performed this exercise with respect to the
8 Geometrix equipment, and came to the
9 conclusion that you suggest, that all of
10 those things exist in the Geometrix
11 equipment, they would also have to say that
12 it exists in Kono.
13 Q. Is the disclosure in Kono, does
14 that essentially describe in your view the
15 Geometrix equipment?
16 MS. WALDRON: Objection. Vague.
17 Ambiguous.
18 A. I haven't performed this analysis,
19 but I'll just stop there. I haven't advised
20 anyone whether Geometrix has to pay royalties
21 to Kono if that's what you're asking me.
22 That might be another infringement.
23 Q. When you were rendering your
24 invalidity report, did anyone explain to you
25 how means plus function claims elements were

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1 Goodman
2 construed?
3 A. I think so. I have heard
4 explanations before I got involved in this
5 lawsuit, and I assume -- I would imagine that
6 I heard the same explanations, but I don't
7 remember specifically.
8 Q. What is your understanding about
9 means plus function claim elements are
10 construed?
11 A. My understanding is that in order
12 to construe the claims, you have to read the
13 claim itself and find out what function is
14 being claimed, and then read the patent
15 specification to find out the structure that
16 performs that function.
17 Q. Is it your understanding that the
18 structure can be found in the prior art if an
19 equivalent of the structure is disclosed?
20 MS. WALDRON: Objection. Legal
21 conclusion. Compound.
22 A. I have no understanding of whether
23 that's true or not.
24 Q. How about with respect to
25 infringement?

1 Goodman
2 MS. WALDRON: Objection. Form.
3 Legal conclusion.
4 A. Would you state a complete question
5 about infringement?
6 Q. With respect to infringement, is it
7 your understanding that means plus function
8 elements are construed to cover the
9 corresponding structure plus equivalents?
10 MS. WALDRON: Objection. Calls
11 for a legal conclusion.
12 A. I understand that the claim may be
13 drafted in means plus function format. I
14 understand that for an accused product to
15 literally meet a means plus function claim
16 limitation, an element in the accused product
17 must, one, perform the same function recited
18 in the means plus function claim limitation,
19 and, two, use the same structure disclosed in
20 the patent specification or its equivalent
21 structure to perform the recited function.
22 I understand that an accused
23 structure may be equivalent to the disclosed
24 structure in the patent specification if it
25 performs the same function in the same way to

1 Goodman
2 achieve the same result.
3 Q. When you were doing your validity
4 analysis for Kono, did you also understand
5 that means plus function claim elements
6 encompass corresponding structure and
7 equivalent structure?
8 MS. WALDRON: Objection. Legal
9 conclusion. Assumes a fact.
10 A. Would you read the question again?
11 (Record read)
12 A. I didn't use that legal rule in my
13 validity analysis. I understood what it
14 meant in terms of infringement, but I didn't
15 use it in my validity analysis.
16 Q. Correct me if I'm wrong, your
17 testimony is that this means for processing
18 limitation is disclosed in Kono to the same
19 extent that one would claim it's found in
20 Geometrix; is that correct?
21 A. Again, I won't subscribe to same
22 extent, either it's found there or not. I
23 don't know what an extent of finding it. So
24 it's my opinion that if somebody were to
25 analyze the Geometrix technology and apply

33 (Pages 126 to 129)

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1 Goodman
 2 this claim construction and then find in the
 3 Geometrix technology that the claim
 4 limitation is met, that same person would be
 5 compelled to say that it is also met in Kono.
 6 Or that Kono discloses it.
 7 Q. But that's not necessarily because
 8 the algorithms in Kono and in Geometrix are
 9 the same; is that right?
 10 MS. WALDRON: Objection. Vague.
 11 Form.
 12 A. As I've said before, Geometrix --
 13 sorry, as I've said before, Kono discloses a
 14 large universe of algorithms, and it is my
 15 opinion that those algorithms are included in
 16 the patent and also in Geometrix.
 17 Q. Are there any flow charts in Kono?
 18 A. I don't remember seeing any flow
 19 charts.
 20 Q. Is there any code appended to the
 21 Kono disclosure?
 22 A. I don't remember seeing that
 23 either.
 24 Q. Do you know whether the word
 25 software is mentioned in Kono?

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1 Goodman
 2 A. I don't recall seeing the word
 3 software in Kono.
 4 Q. Is the word algorithm mentioned in
 5 Kono?
 6 A. I don't recall seeing that.
 7 Q. How do you know that if the means
 8 for processing limitation is found in Kono,
 9 then it must also be --
 10 MR. MILCETIC: Scratch that.
 11 Q. How do you know that if the means
 12 for processing limitation is found in
 13 Geometrix, then it must also be found in
 14 Kono?
 15 MS. WALDRON: Objection. It
 16 assumes a fact.
 17 A. I know that because Kono discloses
 18 using data such as the difference in arrival
 19 time in order to calculate location, and the
 20 means for processing limitation also requires
 21 the same words for virtually differences in
 22 times of arrival. So that is the basis of --
 23 and then someone recognized that there are a
 24 lot of algorithms for using differences of
 25 times of arrival for determining location.

1 Goodman
 2 Q. I believe for this means for
 3 processing element, you construed it to
 4 include some structure that included Figure 7
 5 of the patent; is that right?
 6 A. Yes.
 7 Q. Could we turn to Figure 7 of the
 8 patent. I believe that's Exhibit 462. And
 9 let me know when you're there.
 10 A. Exhibit 462, yes. And anyplace in
 11 particular? I found the patent.
 12 Q. Yes, Figure 7. Let me know when
 13 you're there.
 14 A. Thanks.
 15 I have Figure 7.
 16 Q. This is part of the means for
 17 processing in your view, right?
 18 A. Yes.
 19 Q. The first block, do you see what it
 20 says?
 21 A. Yes.
 22 Q. Can you read that into the record?
 23 A. Yes. The first block says,
 24 "Receive one frame of data from all cell
 25 sites."

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1 Goodman
 2 Q. Does Kono disclose receiving a
 3 frame of data from all cell sites?
 4 A. Yes.
 5 Q. It does?
 6 A. Yes.
 7 Q. Does did happen in Geometrix?
 8 MS. WALDRON: Objection. Vague.
 9 Calls for a legal conclusion.
 10 A. In my opinion, it doesn't happen in
 11 Geometrix.
 12 Q. So this is one instance where Kono
 13 might disclose something that is present in
 14 Kono irrespective of whether one would
 15 construe the claim to cover Geometrix, right?
 16 A. Would you read that question? I
 17 didn't understand it.
 18 (Record read)
 19 A. I'm sorry, I have to hear that
 20 again.
 21 Are you saying that something is
 22 present or a claim limitation?
 23 Q. Well, I believe that you said that
 24 receiving one frame of data from all the cell
 25 sites is in Kono, right?

34 (Pages 130 to 133)

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1 Goodman
2 It's argumentative and compound.
3 Dr. Goodman has been explaining his
4 positions to you all day.
5 Q. Can you go ahead and write on the
6 exhibits?
7 A. Sure.
8 Q. The court reporter is going to show
9 you what's been going to be marked as
10 Exhibits 471 and 472. Two blank pieces of
11 paper.
12 (Plaintiff's Exhibit 471, Blank
13 Piece of Paper, marked for
14 identification, as of this date.)
15 (Plaintiff's Exhibit 472, Blank
16 Piece of Paper, marked for
17 identification, as of this date.)
18 MS. WALDRON: I don't understand
19 if there is a question pending. I
20 think that this whole exercise is
21 compound, calls for speculation, calls
22 for a legal conclusion. It's an
23 improper hypothetical, and I don't
24 understand how he is supposed to do
25 this on the fly sitting at this

1 Goodman
2 Dr. Goodman is here as a technical
3 expert and is not being put up as a
4 claim construction expert.
5 MR. MILCETIC: Andrew will be
6 using Dr. Goodman to support its
7 construction claims.
8 MS. WALDRON: Is that a question?
9 MR. MILCETIC: A question to you.
10 MS. WALDRON: As you know,
11 Dr. Goodman submitted an infringement
12 report and an invalidity report, not
13 an expert report on claim
14 construction.
15 A. May I have one more sheet of paper,
16 please?
17 Q. This sheet of paper is going to be
18 marked as --
19 A. I beg your pardon. I have it
20 already.
21 Mr. Milcetic, what would you like
22 me to do with Exhibit 469 and 470, can I just
23 write down that I changed my mind or --
24 Q. In fact, since that was an effort
25 that didn't work out, you can cross it out if

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1 Goodman
2 deposition.
3 Q. Dr. Goodman, just recall the
4 construction that you used to render your
5 invalidity report. Write that down for us.
6 A. Okay.
7 MS. WALDRON: Just so it's clear,
8 Andrew Corporation still has all the
9 same objections.
10 This whole line of questioning is
11 improper. You're asking him to assume
12 that Andrew infringes.
13 MR. MILCETIC: Coaching.
14 Q. You can continue.
15 MR. MILCETIC: Why don't we go
16 off the record and change the tape
17 while Dr. Goodman is working.
18 THE VIDEOGRAPHER: We're off the
19 video record at 5:09 p.m.
20 (Thereupon, a recess was taken,
21 and then the proceedings continued as
22 follows.)
23 THE VIDEOGRAPHER: We're back on
24 the video record at 5:21 p.m.
25 MS. WALDRON: I also on that,

1 Goodman
2 you think that's inaccurate.
3 A. If you don't mind, I'll draw a line
4 through it and I'll state for the record that
5 it doesn't represent the response to your
6 request.
7 Q. Okay, fair enough.
8 A. So I'm crossing out 469 and 470.
9 And I'm submitting 471 and 472.
10 Q. How would you characterize what you
11 have written on 471 and 472, Exhibits?
12 MS. WALDRON: Objection. Calls
13 for a narrative.
14 A. Oh, what I have written on my
15 exhibit is what the claim construction that
16 TruePosition would need to get to prove
17 infringement of the Geometrix band.
18 Q. Is it also the claim construction
19 that you used to render your invalidity
20 opinion?
21 A. Yes.
22 Q. Just so the record is clear, you do
23 not agree with the construction written on
24 Exhibit 471 and 472, correct?
25 A. That's correct.

44 (Pages 170 to 173)

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1 Goodman
 2 Q. Do you mind telling me what you
 3 wrote, reading it for me?
 4 A. Okay. I'll start with Exhibit 471.
 5 It says, "Claim construction that
 6 would be used to improve the infringement of
 7 the '144 patent by Andrew Geometrix
 8 technology."
 9 Q. Just to be clear, that's also the
 10 construction that you used for rendering your
 11 invalidity report, correct?
 12 A. Yes.
 13 Q. Go ahead.
 14 A. "Claim 22, a ground based ...
 15 possessing multiple cellular telephones
 16 equals any cellular telephone system."
 17 Q. And you disagree with that
 18 construction, correct?
 19 A. Yes.
 20 Q. Go on.
 21 A. Then there is a line, kind of a
 22 squiggly line separating that from the next
 23 claim element. And the next claim element is
 24 represented by these words, "At least three
 25 cell sites equipped with ... channels

1 Goodman
 2 A. Yes.
 3 Q. Is there any reasonable -- first of
 4 all, thanks for going through that exercise
 5 with me.
 6 Is there any reasonable
 7 interpretation of the claims that you are
 8 aware of under which Geometrix would infringe
 9 the '144 patent?
 10 MS. WALDRON: Objection.
 11 Improper hypothetical. Legal
 12 conclusion.
 13 A. I haven't done that analysis, but
 14 I'm certainly not -- the answer is no.
 15 Q. You're not aware of any?
 16 A. I'm not aware of any.
 17 Q. Reasonable interpretation?
 18 A. That's correct.
 19 Q. Are you aware of any reasonable
 20 interpretation of the '144 patent claims
 21 under which Kono would invalidate the '144
 22 patent?
 23 A. I think --
 24 MS. WALDRON: Same objections.
 25 A. I did this on the fly, but I think

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1 Goodman
 2 equals", and then it says, "the cellular
 3 system has at least three base stations that
 4 receive signals from cell phones."
 5 And then there is a squiggly line,
 6 "locating means ... transmissions equals",
 7 and it says "the cellular system estimates
 8 the locations of subscribers. And" -- should
 9 I continue?
 10 Q. And you disagree with that
 11 construction as well, correct?
 12 A. Yes. It's quite different from the
 13 construction I think is correct that you
 14 asked me for before.
 15 Q. Fair enough. You can continue.
 16 A. It says "database means ...
 17 locations. The cell phone system has the
 18 location information in its memory. It also
 19 has a code in memory that is specific to one
 20 instance of performing the locating means.
 21 If it performs locating means again for the
 22 same cell phone, it will have a different
 23 code in its memory."
 24 Q. You disagree with that
 25 construction?

1 Goodman
 2 this interpretation would -- the
 3 interpretation of the claims that I just
 4 read.
 5 Q. Which would be in Exhibit 47 --
 6 A. 471 and 472.
 7 Q. Do you consider that a reasonable
 8 interpretation of the claims, 471 and 472?
 9 A. Oh, a reasonable interpretation of
 10 the claims under which -- I think it is the
 11 interpretation -- I didn't -- I performed my
 12 validity analysis using this interpretation
 13 of the claims, and I really don't agree with
 14 it, so maybe I can say anything I don't agree
 15 with is unreasonable. I don't know.
 16
 17
 18
 19
 20 (Continued on the following
 21 page to include the jurat.)
 22
 23
 24
 25

45 (Pages 174 to 177)

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1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF DELAWARE

4 TRUEPOSITION, INC.,

5 Plaintiff/Counterclaim-Defendant

6 vs.

CA No. 05-00747-SLR

7 ANDREW CORPORATION,

8 Defendant/Counterclaim-Plaintiff

9
10
11
12 CONTINUED VIDEOTAPED DEPOSITION

13 OF DR. DAVID GOODMAN

14 New York, New York

15 Tuesday, January 16, 2007

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22
23
24 Reported by:
Adrienne M. Mignano
25 JOB NO. 190793

<p style="text-align: right;">Page 182</p> <p>1 2 3 4 January 16, 2007 5 9:45 a.m. 6 7 Continued Deposition of DR. DAVID 8 GOODMAN, held at the offices of 9 Kirkland & Ellis, 153 E. 53rd Street, 10 New York, New York, pursuant to Notice, 11 before Adrienne M. Mignano, a Notary 12 Public of the State of New York. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 184</p> <p>1 Goodman 2 THE VIDEOGRAPHER: Good morning. 3 Here begins videotape number five 4 in the continuing deposition of 5 Dr. David Goodman in the matter of 6 TruePosition Incorporated versus 7 Andrew Corporation. 8 Today's date is January the 16th, 9 2007. The time is 9:45 a.m. You may 10 proceed. 11 D A V I D G O O D M A N, resumed as a 12 witness, having been previously sworn 13 by the Notary Public, was examined and 14 testified further as follows: 15 EXAMINATION BY 16 MR. MILCETIC: 17 Q. Dr. Goodman, yesterday we were 18 talking about your invalidity report and I'd 19 like to move on to your non-infringement 20 rebuttal report, if you don't mind. 21 Before we do, I would like to sort 22 of ask some questions that I think might 23 recap yesterday. 24 Is that all right with you? 25 A. Of course.</p>
<p style="text-align: right;">Page 183</p> <p>1 2 APPEARANCES: 3 4 WOODCOCK WASHBURN Attorneys for Plaintiff 5 Circa Centre, 12th Floor 2929 Arch Street 6 Philadelphia, PA 19104-2891 7 BY: PAUL B. MILCETIC, ESQ. 8 9 KIRKLAND & ELLIS Attorneys for Defendants and The Witness 10 200 east Randolph Drive Chicago, Ill 60601 11 12 BY: RACHEL PERNIC WALDRON, ESQ. 13 14 15 16 ALSO PRESENT: 17 PAUL JANSEN, Videographer 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 185</p> <p>1 Goodman 2 Q. If I understand you correctly, your 3 opinion is that claim 1 of the '144 patent is 4 invalid if that claim is construed to cover 5 Geometrix, correct? 6 A. Yes. 7 Q. But you haven't formed an opinion 8 as to whether claim 1 is invalid if Geometrix 9 is not encompassed by claim 1? 10 A. That's correct. 11 Q. Is that also true for claim 2 of 12 the '144 patent? 13 A. Yes. 14 Q. Claim 22? 15 A. Yes. 16 Q. Claim 31? 17 A. Yes. 18 Q. Claim 32? 19 A. Yes. 20 Q. Let's move on to your rebuttal 21 report. Is that all right with you? 22 A. Yes. 23 Q. I believe it's Exhibit 467. 24 A. I'll park these documents. 25 Q. Yesterday I think you mentioned</p>

2 (Pages 182 to 185)



CLAIM CONSTRUCTION
THAT WOULD BE
USED TO PROVE
INFRINGEMENT OF THE '144
PATENT BY ANDREW GEOMETRIX
TECHNOLOGY

CLAIM 22

A ground-based ... possessing
mobile cellular telephones =

Any cellular telephone system

At least three cell sites equipped
--- channels =

The cellular system has at least
3 base stations that receive
signals from cellphones

Locating means ... transmissions =

The cellular system estimates the locations
of subscribers

database means ^{the} locations



the cellphone system has the location information in its memory. It also has a code that is specific to one location estimation procedure instance of performing the locating means. If it performs the locating means again for the same cellphone it will ~~not~~ have a different code in its memory.

CERTIFICATE OF SERVICE

I, James D. Heisman, hereby certify that on this 31st day of January, 2007, I caused a true and correct copy of the foregoing **Appendix A to TruePosition's Memorandum in Support of its Motion for Partial Summary Judgment that Andrew Cannot Provide its Claims of Invalidity** upon the following individuals in the manner indicated below:

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James D. Heisman (# 2746)